

III. Remarks

By this Amendment, applicant amends claim 12 and adds claims 14-16. In the June 9, 2006 Office Action, the Examiner withdrew claims 1-11. Claims 1-16 are pending in the application. Applicant asserts that the amendments to claim 12 and the addition of claims 14-16 find support in, for example, originally filed claims 1-13, at page 1, lines 11-21, and at page 5, lines 7-14. Therefore, no new matter is introduced.

Applicant asserts that the amendments to claim 12 and the addition of claims 14-16 do represent and read on the invention (i.e., Group I - Figs. 1, 2a, 3, and 4) that applicant elected in applicant's restriction/election response of March 22, 2006.

Regarding the Examiner's withdrawal of claims 1-11 in the restriction/election requirement of March 6, 2006, applicant's counsel telephoned the Examiner on June 21, 2006 to determine the reasons for the withdrawal of claims 1-11. In the June 21, 2006 telephone interview and a follow-up July 12, 2006 telephone interview, the Examiner stated that he had measured, in Fig. 2A (which applicant emphasized is a two dimensional representation of a three dimensional assembly), a difference between the width of the driver 22 and the width of the receiver 34 to be approximately 1/16". From this the Examiner concluded that the driver 22 and receiver 34 could not be brought into contact with one another, as independent claim 1 requires.

In response to the Examiner's withdrawal of claims 1-11 and the above-mentioned Examiner's conclusions in the telephone interviews, applicant filed, on August 7, 2006, a Petition to the Director under 37 CFR 1.181 petitioning the Director to

Appl. No. 10/781,395
Amendment Dated October 18, 2006
Reply to Office action of June 9, 2006

reverse the action of the Examiner in withdrawing claims 1-11 from consideration.

Applicant took the position that 1/16" would be enough space to allow for bringing the driver 22 into contact with the receiver 34. Furthermore, applicant asserted that patent drawings are not intended to define precise proportions of the elements of the invention, that the specification must be utilized in conjunction with the drawings, and cited the following court decisions - *In re Chitayat*, 161 USPQ 224 (CCPA 1969) and *Hockerson-Halberstadt Inc. v. Avia Group International Inc.*, 55 USPQ2d 1487 (CAFC 2000). Thus, applicant incorporates the arguments in the Petition to the Director and requests reversal of the withdrawal of claims 1-11.

Since applicant has not yet received a reply from the Director regarding the Petition to the Director, applicant is filing the present amendment in response to the Office Action of June 9, 2006.

Favorable reconsideration of this application is respectfully requested in light of the above amendments and the following detailed discussion.

Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected claims 12-13 under 35 U.S.C. § 102(b) as being anticipated by Gier (US 5,694,717, hereinafter Gier). The Examiner asserts that Gier discloses a slider panel assembly comprising a slider panel (I) having at least one slider panel edge (the Examiner asserts that all panels have an edge), a driver receiver (4)

including at least two receiver stops with surfaces/bumpers (column 3, lines 16-32), and the driver receiver (4) disposed on the slider panel (1) and parallel to the slider panel edge.

In contrast, applicant asserts that amended independent claim 12 requires at least the limitations that the slider panel has a horizontal slider panel edge, that the driver receiver is disposed parallel to the horizontal slider panel edge, and that the slider panel is capable of horizontally opening and closing a window aperture in a vehicle backlite.

After studying the Gier patent, applicant can find nowhere in Gier where Gier teaches at least the above-stated claimed limitations of claim 12. Instead, applicant finds Gier to be a "vertical" window winder in a vehicle door, which raises and lowers a window glass 1 (see, for example, column 2, lines 16-19), that permits reducing the "height" of the guide rails (see, for example, Abstract and Fig. 1). Also, applicant finds the lugs 31,32 (i.e., stops) to be "vertically disposed" as shown, for example, in Fig. 1.

Regarding claim 13, applicant does not find Gier to teach at least the limitation of bumpers disposed on the stops, as claim 13 requires. Instead, applicant asserts that one skilled in the art of bumpers would not find the surface of the lugs 31,32 to be comparable to the bumpers 42/44 of the instant invention, where the bumper 42/44 are provided, for example, to cushion the mechanical impact forces (see, for example, page 7, lines 12-17).

Therefore, applicant respectfully submits that independent claim 12 and its dependent claim 13 are not anticipated by Gier, as the inventions defined thereby are

Appl. No.10/781,395
Amendment Dated October 18, 2006
Reply to Office action of June 9, 2006

not identically disclosed in Gier, as required by 35 U.S.C. § 102(b). Consequently, claims 12 and 13 should be allowed over Gier.

In addition, applicant asserts that new claims 14-16 require at least the limitations that the regulator is urged horizontally in a first direction, the first stop contact surface is brought into mechanical contact with the third contact surface, thereby opening a vehicle backlite window aperture, and that the regulator is urged horizontally in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface, thereby closing a vehicle backlite window aperture.

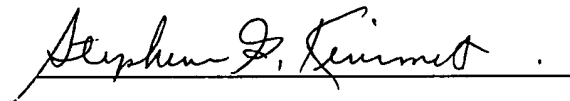
After studying Gier, applicant does not find Gier to teach these limitations. Instead and as mentioned above, applicant finds Gier to teach a "vertical" window winder in a vehicle door, which raises and lowers a window glass 1, that permits reducing the "height" of the guide rails. Also, applicant finds the lugs 31,32 (i.e., stops) to be "vertically disposed" as shown, for example, in Fig. 1.

Therefore, applicant respectfully submits that independent claim 14 and its dependent claims 15-16 are also not anticipated by Gier, as the inventions defined thereby are not identically disclosed in Gier, as required by 35 U.S.C. § 102(b). Consequently, claims 14-16 should be allowed over Gier.

Appl. No.10/781,395
Amendment Dated October 18, 2006
Reply to Office action of June 9, 2006

Accordingly, withdrawal of the rejection of claims 12 and 13, favorable reconsideration of claims 12 and 13, and favorable consideration of claims 14-16 are respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Stephen G. Kimmet", is written over a horizontal line.

Stephen G. Kimmet
Registration No. 52,488

ATTORNEYS/AGENT
Marshall & Melhorn, LLC
Four SeaGate – 8th Floor
Toledo, Ohio 43604
Phone: (419) 249-7132
Fax: (419) 249-7151